



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 4, 2004

Mr. Lance Beversdorff  
Staff Attorney  
Texas Youth Commission  
P.O. Box 4260  
Austin, Texas 78765

OR2004-3628

Dear Mr. Beversdorff:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 200745.

The Texas Youth Commission (the "commission") received a request for the following: (1) the documentation used in the requestor's probation letter that shows the requestor violated the youths' rights and the OD report for that day; (2) all information gathered during the investigation conducted by Mrs. Lawson; (3) all documentation used to write three letters of reprimand; (4) all documentation used to support the recommendations for each of the requestor's grievances; (5) the OD report for September 20, 2003, including the visitation log for that day; (6) the dates and minutes for the last visitation training held at CSS; (7) the "qualification for job description" regarding Gwen Tolver; (8) the pay scale, merit raise increase, and performance evaluations regarding Crystal Scott; and (9) documentation concerning the last selection of STAR team members.<sup>1</sup> You state that the commission will make some of the requested information available to the requestor. You claim that the remaining requested information is excepted from disclosure under section 552.101 of the Government Code. We assume that, to the extent other information responsive to the instant request existed on the date of the commission's receipt of this request, it has been released to the requestor. If not, you must do so immediately. See Gov't Code §§ 552.006, .221, .301, .302; Open Records Decision No. 664 (2000) (concluding that

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<sup>1</sup> We note that the requestor clarified his request for information regarding the items listed as number seven through nine above, on February 25, 2004.

section 552.221(a) requires that information not excepted from disclosure must be released as soon as possible under the circumstances). We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from required public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. You inform us that the highlighted portions of the submitted documents identify juveniles committed to the commission's care. We agree that the commission must withhold the highlighted names and initials under section 552.101 of the Government Code in conjunction with the common-law right to privacy. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code § 58.007. The rest of the submitted information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body

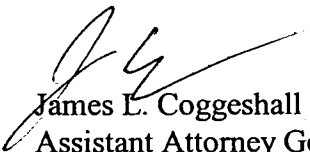
fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/DKL/sdk

Ref: ID# 200745

Enc. Submitted documents

c: Mr. Marvin Green  
Crockett State School  
c/o Lance Beversdorff  
Texas Youth Commission  
P.O. Box 4260  
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(w/o enclosures)